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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,318

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EXAMINER

PATTERSON, MARC A

ART UNIT

PAPER NUMBER

1782

MAIL DATE

DELIVERY MODE

10/08/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/803,318	Applicant(s) DAVIS ET AL.	
	Examiner MARC A. PATTERSON	Art Unit 1782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23,24 and 26-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23,24 and 26-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 103(a) rejection of Claims 23, 29 - 30, 44 - 46 and 51 – 52 as being unpatentable over Garza et al (U.S. Patent No. 5,707,751) in view of Branbilla (U.S. Patent No. 5,916,692), of record on page 2 of the previous Action, is withdrawn.
2. The 35 U.S.C. 103(a) rejection of Claims 24, 26 - 28, 31 - 43 and 47 – 50 as being unpatentable over Garza et al (U. S. Patent No. 5,707,751) in view of Branbilla (U.S. Patent No. 5,916,692) and further in view of Lind et al (U. S. Patent Publication No. 2001/0003624), of record on page 2 of the previous Action, is withdrawn.

NEW REJECTIONS

Claim Rejections – 35 USC § 103(a)

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 23 – 24, 26 – 33, 37 – 47 and 51 - 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelch (U.S. Patent No. 5,000,992) in view of Lind et al (U.S. Patent Publication No. 2001/0003624).

With regard to Claim 23, Kelch discloses a film comprising at least three layers (column 3, lines 44 – 45) comprising a core layer that is a foamed layer (middle; column 3, lines 51 – 55)

Art Unit: 1782

comprising 60 - 90 wt.% LDPE and 40 - 10 wt.% HDPE (column 3, lines 33 - 40) and two skin layers (column 3, lines 51 - 55), comprising 85 - 95 wt.% LLDPE and 5 - 15 wt.% LLDPE (column 3, lines 9 - 14) that is mLLDPE (Ziegler catalysts; column 3, lines 50 - 55). Kelch fails to disclose an LLDPE that is a metallocene LLDPE.

Lind et al teach a film having LLDPE that is a metallocene LLDPE for the purpose of obtaining a film having increased strength (paragraph 0013). It therefore would have been obvious for one of ordinary skill in the art to provide for LLDPE that is a metallocene LLDPE in order to provide a film having increased strength as taught by Lind et al.

With regard to Claim 24, because Kelch discloses LLDPE, Kelch discloses an mPE prepared from ethylene and a C₃ to C₁₂ alpha olefin monomer, and the polymer has a density of between about 0.910 g/cm³ to 0.940 g/cm³ and HDPE having a density of between 0.940 to 0.970 g/cm³.

With regard to Claims 26, 31 - 33, 37, 39, 43 and 47, the metallocene polyethylene disclosed by is linear low density polyethylene, as stated above.

With regard to Claims 27 and 40 - 41, Lind et al also disclose HDPE having a density of 0.960 to 0.965 g/cm³ (paragraph 0020).

With regard to Claims 28, 38 and 42, Lind et al disclose HDPE having a density of 0.925 to 0.935 g/cm (paragraph 0020).

With regard to Claims 29 - 30 and 44 - 46, when formed into a coextruded ABA structure having a thickness of less than 50 microns, the film would therefore have a 1% secant modulus MD of at least 500 mPa and 1% secant modulus TD of at least 600 mPa and a difference in Gloss 20 and 60 of 2% or less.

With regard to Claims 51 – 52, slip and antiblock additives are not disclosed by Kelch; the claimed aspect of exclusion of slip and antiblock additives is therefore disclosed by Kelch.

5. Claims 34 – 36 and 48 – 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelch (U.S. Patent No. 5,000,992) in view of Lind et al (U.S. Patent Publication No. 2001/0003624) and further in view of Mermelstein (U.S. Patent No. 3,939,627).

Kelch and Lind et al disclose a film having a foamed layer as discussed above. The claimed aspect of the film being coextruded is directed to a process limitation and is therefore given little patentable weight. With regard to Claims 34 and 48, Kelch and Lind et al fail to disclose a film that is heat shrinkable.

Mermelstein teaches shrinkable film for a closure for the purpose of applying the closure to a container using a machine (column 2, lines 34 - 40).

It therefore would have been obvious for one of ordinary skill in the art to have provided for a film that is shrinkable in Kelch and Lind in order to apply a closure comprising the film by machine as taught by Mermelstein.

With regard to Claims 35 and 49 - 50, Kelch and Lind et al therefore disclose the wrapping of a group of items wrapped by the film, comprising a container and its contents; Lind et al therefore disclose a collation shrink wrapped structure.

With regard to Claim 36, Kelch and Lind et al therefore disclose a process of making a packaged structure comprising the wrapping of a package and heating the wrapped package to shrink the film and applying a holding force.

ANSWERS TO APPLICANT'S ARGUMENTS

6. Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 23, 29 - 30, 44 - 46 and 51 - 52 as being unpatentable over Garza et al (U.S. Patent No. 5,707,751) in view of Branbilla (U.S. Patent No. 5,916,692) and 35 U.S.C. 103(a) rejection of Claims 24, 26 - 28, 31 - 43 and 47 - 50 as being unpatentable over Garza et al (U.S. Patent No. 5,707,751) in view of Branbilla (U.S. Patent No. 5,916,692) and further in view of Lind et al (U.S. Patent Publication No. 2001/0003624), of record in the previous Action, have been carefully considered and have been found to be persuasive. The rejections are therefore withdrawn. The new rejections above are directed to Claims 23 - 24 and 26 - 52.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1782

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Marc A Patterson/
Primary Examiner, Art Unit 1782